

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

H-D U.S.A., LLC and HARLEY-DAVIDSON)
MOTOR COMPANY GROUP, LLC,)
)
Plaintiffs,) Case No. 17-cv-711-JPS
)
v.) Oral Argument Requested
)
SUNFROG, LLC d/b/a SUNFROG)
SHIRTS and JOHN DOES,)
)
Defendants.)

DEFENDANT SUNFROG'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT

Defendant SunFrog, LLC (“SunFrog”), by and through its attorneys, Revision Legal, PLLC and Andrus Intellectual Property Law, LLP, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Civil L.R. 7(a)(1) moves to dismiss Plaintiffs’ Complaint and submits the accompanying memorandum of law in support of its motion. Plaintiffs’ leveled seven overlapping and/or highly related claims against SunFrog in their Complaint, which Plaintiffs filed on May 19, 2017. (Pls.’ Compl. ¶¶ 92-142, ECF No. 1.)

Plaintiffs expressly assert claims for: trademark counterfeiting under 15 U.S.C. § 1114(1); trademark infringement under 15 U.S.C. § 1114(1); trademark infringement, false designation of origin, and unfair competition under 15 U.S.C. § 1125(a)(1)(A); trademark dilution under 15 U.S.C. § 1125(c); copyright infringement under 17 U.S.C. § 101 *et seq.*; trademark infringement under Wis. Stat. § 132 *et seq.*; as well as common law trademark infringement, unfair competition, and misappropriation. (Pls.’ Compl. ¶¶ 92-142, ECF No. 1.) Because the six causes of action rooted in consumer protection law, namely, trademark protection share a similar fatal, incurable flaw, each such claim should be dismissed. The

remaining claim, sounding in copyright law, is also fatally deficient and should be dismissed with prejudice.

WHEREFORE, SunFrog respectfully requests this Honorable Court grant this motion to dismiss all of Plaintiffs' claims with prejudice for the reasons stated in SunFrog's supporting memorandum.

Dated: July 21, 2017

Respectfully submitted,

s/Aaron T. Olejniczak

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